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8 **BEFORE THE**
BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation) CASE NO. AC-97-23
Against:)
12)
DEAN MARK BREWER, CPA) DEFAULT DECISION
13 7745 E. Redfield, Ste. 600)
Scottsdale, AZ 85260) [Gov. Code §11520]
14)
CPA Certif. No. 30424,)
15)
Respondent.)
16)

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18 **FINDINGS OF FACT**

19 1. On February 25, 1997, Complainant Carol Sigmann, in
20 her official capacity as Executive Officer of the Board of
21 Accountancy, Department of Consumer Affairs, State of California
22 ("Board"), filed Accusation No. AC-97-23 ("Accusation") against
23 Dean Mark Brewer ("Respondent").

24 2. On March 5, 1997, Phyllis Lumpkin, an employee of
25 the Office of the Attorney General, sent, by regular first class
26 mail and by certified mail with return receipt requested, a copy
27 of the Accusation, Statement to Respondent, Government Code

1 sections 11507.5, 11507.6, and 11505.7, Notice of Defense in
2 triplicate, and a Request for Discovery, to Respondent's address
3 of record with the Board which was and is 7745 E. Redfield, Suite
4 600, Scottsdale, Arizona 85260. The package mailed certified was
5 returned to the Office of the Attorney General marked "returned
6 to sender - incarcerated Florence, AZ." The first class package
7 was not returned to the Office of the Attorney General.

8 On March 26, 1997, Ms. Lumpkin sent, by regular first
9 class mail and by certified mail with return receipt requested, a
10 copy of the Accusation, Statement to Respondent, Government Code
11 sections 11507.5, 11507.6, and 11505.7, Notice of Defense in
12 triplicate, and a Request for Discovery, to Respondent at
13 Brewer - #121890, APC-Douglas, Cochipe Unit, P. O. Box 506,
14 Douglas, Arizona 85608. Both packages were returned to the
15 Office of the Attorney General marked "returned to sender - not
16 here - returned undeliverable by Dept. of Corrections."

17 The above-described service was effective as a matter
18 of law pursuant to the provisions of California Government Code
19 section 11505, subdivisions (a) and (c).

20 3. Respondent has failed to file a Notice of Defense
21 within the time allowed by section 11506(a) of the Government
22 Code.

23 4. On or about October 3, 1980, the Board issued
24 Certified Public Accountant ("CPA") Certificate No. 30424 to
25 Respondent. Said certificate expired on August 31, 1995, and is
26 currently in "Retired" status.

1 5. California Business and Professions Code section
2 118 provides, in pertinent part:

3 "(b) The suspension, expiration, or
4 forfeiture by operation of law of a license issued by a
5 board in the department, or its suspension, forfeiture,
6 or cancellation by order of the board or by order of a
7 court of law, or its surrender without the written
8 consent of the board, shall not, during any period in
9 which it may be renewed, restored, reissued, or
10 reinstated, deprive the board of its authority to
11 institute or continue a disciplinary proceeding against
12 the licensee upon any ground provided by law or to
13 enter an order suspending or revoking the license or
14 otherwise taking disciplinary action against the
15 license on any such ground."

16 6. California Government Code section 11506 provides,
17 in pertinent part:

18 "(b) The respondent shall be entitled to a
19 hearing on the merits if he files a notice of defense,
20 and any such notice shall be deemed a specific denial
21 of all parts of the accusation not expressly admitted.
22 Failure to file such notice shall constitute a waiver
23 of respondent's right to a hearing, but the agency in
24 its discretion may nevertheless grant a
25 hearing. . . ."

26 7. Respondent failed to file a Notice of Defense
27 within 15 days after service upon him of the Accusation and

1 therefore waived his right to a hearing on the merits of the
2 Accusation.

3 8. California Government Code section 11520 provides,
4 in pertinent part:

5 "(a) If the respondent fails to file a
6 notice of defense or to appear at the hearing, the
7 agency may take action based upon the respondent's
8 express admissions or upon other evidence and
9 affidavits may be used as evidence without any notice
10 to respondent. . . ."

11 9. The Board is authorized to revoke Respondent's
12 Certified Public Accountant ("CPA") Certificate pursuant to
13 Section 5100 of the California Business and Professions Code,
14 which provides that the Board may revoke, suspend or refuse to
15 renew any permit or certificate issued by the Board, or may
16 censure the holder of any such permit or certificate.

17 10. The evidence forming the basis of the Board's
18 decision consists of the following:

- 19 a. Original signed accusation no. AC-97-23;
20 b. Declarations of service of accusation and
21 accompanying documents by first class mail and
22 certified mail on March 5, 1997;
23 c. Declaration of service of accusation and
24 accompanying documents by first class mail and
25 certified mail on March 26, 1996;

1 d. Pleading packages mailed certified on March 5,
2 1997, certified on March 26, 1997, and regular first class on
3 March 26, 1997, all marked "returned to sender".

4 e. Certification of license history by Gregory
5 P. Newington, Chief, Enforcement Program, California
6 State Board of Accountancy, Department of Consumer
7 Affairs, dated December 9, 1996, showing that
8 respondent's certification was placed on retired status
9 effective September 1, 1995; and

10 f. Investigation report, case control no. 97-93,
11 dated November 25, 1996, and its three exhibits,
12 prepared by Investigative CPA Laurence E. Finney, CPA,
13 of the California State Board of Accountancy.

14 11. Pursuant to its authority under Government Code
15 section 11520, and based on the evidence before it, the Board
16 finds that the allegations, and each of them, contained in
17 paragraph 4 of the Accusation, are true.

18 **DETERMINATION OF ISSUES**

19 Respondent is subject to disciplinary action pursuant
20 to section 5100 of the California Business and Professions Code
21 by reason of the Findings of Fact numbered 1 through 11 above.

22 **DECISION AND ORDER OF THE BOARD**

23 Certified Public Accountant ("CPA") Certificate No.
24 30424, heretofore issued to Respondent Dean Mark Brewer, is
25 hereby revoked.

26 An effective date of August 24, 1997, has
27 been assigned to this Order.

1 Pursuant to California Government Code Section 11520,
2 subdivision (b), Respondent is entitled to make any showing by
3 way of mitigation; however, such showing must be made in writing
4 to the Board of Accountancy, 2000 Evergreen Street, Suite 250,
5 Sacramento, California 95815, prior to the effective date of
6 this decision.

7 Made this Jul 25 day of July , 1997.

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10 FOR THE BOARD OF ACCOUNTANCY
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BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	Case No. AC-97-23
Against:)	
)	ACCUSATION
DEAN MARK BREWER, CPA)	
7745 E. Redfield, Ste. 600)	
Scottsdale, AZ 85260)	
)	
CPA Certif. No. 30424,)	
)	
Respondent.)	

Complainant, Carol Sigmann, alleges as follows:

1. She is the Executive Officer of the Board of Accountancy, Department of Consumer Affairs, State of California (the "Board") and makes and files this accusation solely in her official capacity as such.

LICENSE HISTORY

2. On or about October 3, 1980, the Board issued Certified Public Accountant ("CPA") Certificate No. 30424 to Dean Mark Brewer ("respondent"). Said license expired on August 31, 1995 and is currently in "Retired" status.

1 STATUTES

2 3. This Accusation refers to the following sections of the
3 California Business & Professions Code (the "Code"):

4 A. Section 5100 provides that the Board may discipline the
5 certificate or censure the holder of any certificate guilty of
6 unprofessional conduct, which includes, inter alia the following:
7 "(a) conviction of any crime substantially related to the
8 qualifications, functions and duties of a certified public
9 accountant or public accountant."

10 B. Section 5106 provides in pertinent part as follows:

11 "A plea or verdict of guilty or a conviction following a
12 plea of nolo contendere is deemed to be a conviction within the
13 meaning of this article. The record of the conviction shall be
14 conclusive evidence thereof."

15 C. Section 5107 provides for the recovery by the Board of
16 its reasonable costs of investigation and prosecution, including
17 attorney's fees if respondent is found to have violated, inter
18 alia, Code section 5100(a) by suffering a felony conviction.

19 CHARGES AND ALLEGATIONS

20 4. Respondent has subjected his CPA certificate to
21 discipline under Code section 5100(a) in that on or about June
22 28, 1996 in Superior Court for Maricopa County, Arizona, in State
23 of Arizona v. Dean Mark Brewer, Case No. CR 94-08239, respondent
24 was convicted after plea agreement of one count of computer fraud
25 and nine counts of theft under Arizona criminal law. Respondent
26 was sentenced, inter alia, to eight years in prison and to pay
27 restitution of \$8,745,897.00. Said conviction is substantially

1 related to the qualifications, functions and duties of a CPA.

2 The facts and circumstances surrounding respondent's
3 conviction involve his diversion between 1991 and 1993 of over 8
4 million dollars from Charter Title Agency's escrow accounts
5 without the authorization of any of the account holders, thereby
6 breaching his fiduciary duty to those account holders.

7 WHEREFORE, Complainant requests that a hearing be held on
8 the matters alleged and that following that hearing the Board
9 issue a decision:

10 A. Revoking or suspending CPA certificate no. 30424
11 heretofore issued to Dean Mark Brewer;

12 B. Awarding the reasonable costs of investigation and
13 prosecution pursuant to Code section 5107;

14 C . Taking such other action as the Board deems proper.

15 DATED: February 25, 1997.

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CAROL SIGMANN, Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California